

IN RE PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE - SE/S Eastern Avenue, 1300' NE of Brinkmans Road (25th Eastern Avenue) 15th Election District 5th Councilmanic District Douglas E. Sparks, et ux Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception for an assisted living facility containing 11 beds on the subject property and to permit a waiver of the Residential Transition Area (RTA) requirements set forth in Section 432.4 of the Baltimore County Zoning Regulations (B.C.Z.R.). Petitioners further request variances to permit a driveway width of 10 feet in lieu of the minimum required 20 feet and an aisle width of 15 feet in lieu of the minimum required 20 feet, all as more particularly described on Petitioner's Exhibit 1.

The Petitioners, by Douglas E. Sparks, appeared, testified and were represented by John G. Noppinger, Esquire. Appearing as a Protestant in the matter was Valerie V. Richardson, Health Facilities Surveyor, with the Maryland State Department of Health and Mental Hygiene.

Testimony indicated that the subject property, known as 12513 Eastern Avenue, consists of .51 acres more or less zoned D.R. 5.5 and is improved with a two-story frame dwelling. Petitioners are desirous of establishing an assisted living facility to accommodate 11 beds in the subject dwelling as depicted on Petitioner's Exhibits 1 and 2. Mr. Sparks did not present any testimony or evidence to indicate the use proposed meets and complies with the requirements set forth in Sections 432.4 or 502.1 of the B.C.Z.R.

Valerie Richardson testified that in her capacity as a Health Facilities Surveyor, she has made three separate site visits to the subject property to determine its appropriateness for an assisted living facility. Ms. Richardson testified that the subject dwelling does not comply with the requirements of the State Department of Health and Mental Hygiene for an elderly housing facility, namely, an assisted living facility, of this size. Further, she testified that the use proposed is for domiciliary care as defined in the Code of Maryland Regulations 10.07.01 for assisted living facilities, and is not an assisted living facility as defined by the State of Maryland. Furthermore, Ms. Richardson believes there are health and safety issues relative to the subject property and she is opposed to the relief requested. Ms. Richardson further testified that the property owners have not received a license from the Maryland Department of Health and Mental Hygiene to operate said facility, and in fact, have not yet applied for a license.

The B.C.Z.R. permits the use proposed in a D.R. zone by special exception. However, it is equally clear that the proposed use would be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

After reviewing all of the testimony and evidence presented, it appears that the special exception should not be granted.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. In fact, the Petitioner has not shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances show that the proposed use

at the particular location described by Petitioner's Exhibit 1 would have an adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 442 A.2d 1319 (1981).

The responsibility and burden was upon the Petitioner to present competent and sufficient evidence to substantiate that an assisted living facility on the subject property would comply with the standards set forth in Sections 432 and 502.1 of the B.C.Z.R. The Petitioner provided no credible evidence that these standards and guidelines would be met. In fact, Petitioner failed to provide any evidence whatsoever concerning these issues, prerequisites and conditions upon the issuance of special exception relief. State of Maryland case law has established this burden of proof upon the Petitioner for the granting of a special exception. The failure of the Petitioner to provide any credible evidence concerning those standards compels a finding that the Petitioner has failed to meet his burden and therefore, the Petitions shall be denied.

The proposed use will be detrimental to the health, safety, or general welfare of the locality, and will tend to create congestion in roads, streets, or alleys therein. It will be inconsistent with the purposes of the property's zoning classification, and inconsistent with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, it appears that the requirements of Section 502.1 have not been met and the health, safety, and general welfare of the community shall be adversely affected. Therefore, the relief requested in the special exception should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 3rd day of July, 1991 that the Petition for Special Exception for an assisted living facility containing 11 beds on the subject property, and a waiver of the Residential Transition Area (RTA) requirements set forth in Section 432.4 of the Baltimore County Zoning Regulations (B.C.Z.R.), and variances to permit a driveway width of 10 feet in lieu of the minimum required 20 feet and an aisle width of 15 feet in lieu of the minimum required 20 feet, in accordance with Petitioner's Exhibits 1 and 2, be and is hereby DENIED.

J. Robert Haines
Zoning Commissioner
for Baltimore County

JRH:bjs

ORDER RECEIVED FOR FILING
Date 7/3/91
By [Signature]

ORDER RECEIVED FOR FILING
Date 7/3/91
By [Signature]

PETITION FOR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-377-XA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the Herein described property for ~~an eleven-bed assisted living facility~~ an eleven-bed assisted living facility as defined in Section 101 of the B.C.Z.R. and a request to waive the residential transition requirements per Section 432.4 of the B.C.Z.R.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: N/A (Type or Print Name)
Signature Douglas E. Sparks
Address 12513 Eastern Avenue
City and State Baltimore, Maryland 21220
Attorney for Petitioner: John G. Noppinger (Type or Print Name)
Signature John G. Noppinger
Address 1423 Fidelity Building
City and State Baltimore, Maryland 21201
Attorney's Telephone No.: 539-3816
Legal Owner(s): Douglas E. Sparks (Type or Print Name)
Signature Douglas E. Sparks
Address 12513 Eastern Avenue
City and State Baltimore, Maryland 21220
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Douglas E. and Kimberly M. Sparks
Address 7327 Chesapeake Road
City and State Baltimore, Maryland 21220
Phone No. 335-4863

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of April, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 23rd day of May, 1991, at 9 o'clock A.M.

J. Robert Haines

355

ORDER RECEIVED FOR FILING
Date 7/3/91
By [Signature]

mak - 3/22/91
avail anytime
at time - 1 1/2 hrs

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 91-377-XA

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.4.B. to permit a 10-foot driveway width in lieu of the minimum 20' and Section 409.5.C. to permit a 15' aisle width in lieu of the minimum 20'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

Property has been in use for approximately eight (8) years as a three-bed facility, now being upgraded to an eleven bed facility.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: n/a (Type or Print Name)
Signature Douglas E. Sparks
Address 12513 Eastern Avenue
City and State Baltimore, Maryland 21220
Attorney for Petitioner: John G. Noppinger (Type or Print Name)
Signature John G. Noppinger
Address 1423 Fidelity Building
City and State Baltimore, Maryland 21201
Attorney's Telephone No.: 539-3816
Legal Owner(s): Douglas E. Sparks (Type or Print Name)
Signature Douglas E. Sparks
Address 12513 Eastern Avenue
City and State Baltimore, Maryland 21220
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Douglas E. and Kimberly M. Sparks
Address 7327 Chesapeake Road
City and State Baltimore, Md., 21220
Phone No. 335-4863

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of April, 1991, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 23rd day of May, 1991, at 9 o'clock A.M.

J. Robert Haines

(over)

356

7/3/91 Order Received for Filing

MANK & KUNST
408 YORK ROAD
TOWSON, MARYLAND 21204
296-8294

PETITION FOR SPECIAL EXCEPTION

ZONING DESCRIPTION

91-377-XA

Beginning for the same at a pipe driven into the ground on the southeast side of Eastern Avenue at the beginning of the land conveyed by John A. Sheridan and wife to George Whitelock by Deed dated January 31, 1907, and recorded among the Land Records of Baltimore County in Liber WPC No. 311, folio 272, etc.; and running thence and bounding on the last line of said land reversely South 39 degrees 48 minutes East 208-6/10 feet to the end of the third line of said land; thence binding on said land North 51 degrees 45 minutes East 97-7/10 feet to a fence; thence binding on said fence North 37 degrees 21 minutes West 207-8/10 feet to the southeast side of Eastern Avenue; and thence binding thereon South 52 degrees 10 minutes West 107 feet, more or less, (erroneously 100-7/10 feet in some Deeds) to the place of beginning. The improvements thereon being known as no. 12513 Eastern Avenue.



Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning



111 West Chesapeake Avenue
Towson, MD 21204

887-3353

July 3, 1991

John G. Noppinger, Esquire
1423 Fidelity Building
Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE
SE/S Eastern Avenue, 1300' NE of Brinkmans Lane
(12513 Eastern Avenue)
15th Election District - 5th Councilmanic District
Douglas E. Sparks, et ux - Petitioners
Case No. 91-377-XA

Dear Mr. Noppinger:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Exception and Zoning Variance have been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
Zoning Commissioner
for Baltimore County

JRH:bjs

cc: Ms. Valerie Richardson
Department of Health & Mental Hygiene
4201 Patterson Avenue, 4th Floor, Baltimore, Md. 21215

People's Counsel

File

Posted for Special Exception & Variance
Petitioner: Douglas E. Sparks, et ux
Location of property: SE/8 Eastern Avenue, 1300' NE of Brinkmann Road
12513 Eastern Avenue
Location of Sign: 15th Election District - 5th Councilmanic
Petitioner(s): Douglas E. Sparks, et ux
Remarks: Special Exception & Variance
Posted by: M. Haines Date of return: 4/19/91
Number of Signs: 2

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 91-377-XA
SE/8 Eastern Avenue, 1300' NE of Brinkmann Road
12513 Eastern Avenue
15th Election District
5th Councilmanic
Petitioner(s): Douglas E. Sparks, et ux
Hearing Date: Thursday, May 23, 1991 at 9:00 a.m.
Special Exception: An eleven bed assisted living facility and request to waive the residential transition requirements. Variance: To permit a 10 ft. driveway width in lieu of the minimum 20 ft. and to permit a 15 ft. side width in lieu of the minimum 20 ft.
J. ROBERT HAINES
Zoning Commissioner of Baltimore County
4/23/91 April 23

CERTIFICATE OF PUBLICATION
TOWSON, MD., 4/25/91
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of one successive weeks, the first publication appearing on 4/25/91.

THE JEFFERSONIAN.
S. Zebe Publisher
\$ 37.50

NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 91-377-XA
SE/8 Eastern Avenue, 1300' NE of Brinkmann Road
12513 Eastern Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Douglas E. Sparks, et ux
Hearing: THURSDAY, MAY 23, 1991 AT 9:00 A.M.
Special Exception: An eleven bed assisted living facility and request to waive the residential transition requirements. Variance: To permit a 10 ft. driveway width in lieu of the minimum 20 ft. and to permit a 15 ft. side width in lieu of the minimum 20 ft.
J. Robert Haines
Zoning Commissioner of Baltimore County
Bel Air, Md., April 24 1991
This is to certify, that the annexed Pet # 0111885 was inserted in the AEGIS, a newspaper printed and published in Harford County, once in each of one successive weeks before the 24th day of April, 1991
J. Robert Haines Publisher.

receipt
Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
Account R-001 6150
Number
Date
Please Make Checks Payable To: Baltimore County
CASHIER VALIDATION

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
DATE 5/7/91
Mr. & Mrs. Douglas E. Sparks
12513 Eastern Avenue
Baltimore, Maryland 21220
RE:
Case Number: 91-377-XA
SE/8 Eastern Avenue, 1300' NE of Brinkmann Road
12513 Eastern Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Douglas E. Sparks, et ux
HEARING: THURSDAY, MAY 23, 1991 at 9:00 a.m.
Dear Petitioner(s):
Please be advised that \$ 127.27 is due for advertising and posting of the above captioned property.
THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.
Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND
cc: John G. Wepfinger, Esq.

receipt
Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
Account R-001 6150
Number
Date
Please Make Checks Payable To: Baltimore County
CASHIER VALIDATION

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
April 9, 1991
NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 West Chesapeake Avenue in Towson, Maryland 21204 as follows:
Case Number: 91-377-XA
SE/8 Eastern Avenue, 1300' NE of Brinkmann Road
12513 Eastern Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Douglas E. Sparks, et ux
HEARING: THURSDAY, MAY 23, 1991 at 9:00 a.m.
Special Exception: An eleven bed assisted living facility and request to waive the residential transition requirements. Variance: To permit a 10 ft. driveway width in lieu of the minimum 20 ft. and to permit a 15 ft. side width in lieu of the minimum 20 ft.
J. Robert Haines
Zoning Commissioner of Baltimore County
cc: Douglas E. Sparks, et ux
John G. Wepfinger, Esq.

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
May 8, 1991
John G. Noppinger, Esquire
1423 Fidelity Building
Baltimore, MD 21201
RE: Item No. 355, Case No. 91-377-XA
Petitioner: Douglas E. Sparks, et ux
Petition for Special Exception and Zoning Variance
Dear Mr. Noppinger:
The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.
Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.
IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINTARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.
Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee
JED:jw
Enclosures
cc: Mr. & Mrs. Douglas E. Sparks
12513 Eastern Avenue
Baltimore, MD 21220

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353
Your petition has been received and accepted for filing this 3rd day of April, 1991.
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
Received By:
James E. Dyer
Chairman,
Zoning Plans Advisory Committee
Petitioner: Douglas E. Sparks, et ux
Petitioner's Attorney: John G. Noppinger

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: J. Robert Haines
Zoning Commissioner
DATE: May 2, 1991
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Douglas E. Sparks, Item No. 355
In reference to the requested Special Exception, this office recommends that should the applicant's request be granted, a landscape plan shall be submitted to the Baltimore County landscape planner. The plan shall then be forwarded to the deputy director of the Office of Planning and Zoning prior to the issuance of any building permits. Subsequent to the approval of the deputy director, the petitioner shall provide a copy of the approved landscape plan to the zoning office to ensure that it becomes a part of the official file. Said plan shall include an area of enhanced landscaping between the Simmons property and the proposed parking area.
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.
PK/JL/cmm
ITEM355/ZAC1

Mr. J. Robert Haines
Page 2
April 10, 1991

cc Mr. Douglas E. Sparks wenc.
Mr. J. Ogle wenc.

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: April 19, 1991

TO: Mr. J. Robert Haines
Zoning Commissioner

FROM: Robert L. Family

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: April 2, 1991

ITEM NUMBER: 355

The proposed driveway width should be at least 16 feet wide.

Robert L. Family
Robert L. Family
Traffic Engineer II

RECEIVED

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
INTER-OFFICE CORRESPONDENCE

March 28, 1991

TO: Zoning Commissioner
Office of Planning and Zoning

FROM: DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Item #355, Zoning Advisory Committee Meeting of
April 2, 1991, Douglas S. Sparks, et ux, SE/S Eastern Avenue,
1300' NE of centerline Brinkmans Road, (#12513 Eastern Avenue),
D-15, Public Water and Sewer

COMMENTS ARE AS FOLLOWS:

Prior to approval of a Building Permit Application for renovations to
existing or construction of new health care facilities, complete plans and
specifications of the building, food service area and type of equipment to
be used for the food service operation must be submitted to the Plans Review
and Approval Section, Division of Engineering and Maintenance, State
Department of Health and Mental Hygiene for review and approval.

SSF:rmk

received
5/24/91

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: April 4, 1991

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for April 2, 1991

The Developers Engineering Division has reviewed
the subject zoning items and we have no comments for
Items 349, 350, 351, 352, 353 and 354.

For Items #9, Cycle IV (R-91-115) and 355, a County
Review Group Meeting may be required for each site.

For Item 289, the site is subject to comments by
the Maryland State Highway Administration.

ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

May 16, 1991

John G. Noppinger, Esq.
1423 Fidelity Building
Baltimore, Maryland 21201

Re:
Case Number(s): 91-377-XA
Petitioner(s): Douglas E. Sparks, et ux
Location: 12513 Eastern Avenue

Dear Mr. Noppinger:

Please be advised that due to scheduling conflicts beyond our control,
the above matters, previously set to be heard on May 23, 1991 cannot go
forward on that date.

This case has been rescheduled for JUNE 27, 1991 at 9:00 a.m.

This office regrets any inconvenience caused by this change and
thanks you for your cooperation and understanding.

Very truly yours,

G. G. Stephens
G. G. Stephens
(301) 961-3391

cc: Douglas E. Sparks, et ux
Gene Heisler

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

May 7, 1991

Mr. Gene Heisler
Deputy Director, Long Term Care
Office of Licensing and Certification Programs
Maryland State Department of Health and Mental Hygiene
4201 Patterson Avenue
Baltimore, Maryland 21215-2299

RE: Petitions for Special Exception and Zoning Variance
SE/S Eastern Avenue, 1300' NE of the c/l of Brinkmans Road
(12513 Eastern Avenue)
15th Election District - 5th Councilmanic District
Douglas E. Sparks, et ux - Petitioners
Case No. 91-377-XA

Dear Mr. Heisler:

Your letter to Ms. Carol Hirschburg, Director, Baltimore County
Office of Communications, dated April 24, 1991, has been forwarded to me
for a response.

Please be advised that at the time of the hearing, all parties
in attendance will be given an opportunity to present any testimony in
support or opposition of the relief requested in the above-captioned case.
Your letter will be placed in our case file and by copy of this letter to
our Docket Clerk, you will be notified in the event of any change in sched-
uling of the subject hearing.

In the meantime, should you have any further questions regarding
the hearing process, please feel free to contact Joseph Merrey, Legal
Assistant, at 887-5708.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH:bjs
cc: Ms. Carol Hirschburg
Director of Communications

Ms. Gwendolyn Stephens
Docket Clerk

Case File

May 23

JOHN G. NOPPINGER, P.A.
ATTORNEY AT LAW
1423 FIDELITY BUILDING
210 NORTH CHARLES STREET
BALTIMORE, MD 21201

OFFICE
(301) 539-3818

May 17, 1991

HOME
(301) 829-3366

Mr. James E. Dyer, Chairman
Zoning Plans Advisory Committee
111 M. Chesapeake Avenue
Towson, Maryland 21204

Attention: Ms Winiarski

RE: Item No. 355, Case No. 91-377-XA
Petitioner: Douglas E. Sparks, et ux
Petition for Special Exception and Zoning Variance

Dear Ms Winiarski,

In reply to the letter from Mr. James E. Dyer dated May 8, 1991 requesting information on the comments submitted by the members of the Zoning Plans Advisory Committee, the following information is submitted.

1. The plan has been revised to show a 25' entrance with the construction of Type "A" concrete curb and gutter along the property frontage with Eastern Avenue as requested by the Maryland Department of Transportation and will be submitted at the hearing on May 23, 1991.

2. Should the Special Exception be granted, the Petitioners will submit a landscaping plan to the Baltimore County Landscape Planner with a copy of the approved landscaping plan to the zoning office for inclusion in the official file.

3. In response to the proposal by the Bureau of Traffic Engineering that the driveway width be at least 16 feet, the Petitioners are applying for the variance to permit use of the existing driveway of 10 feet which will accommodate the small anticipated volume of traffic by visitors.

4. In response to the Division of Ground Water Management of the Department of Environmental Protection and Resource Management, the Petitioners do not intend to renovate the existing facility and no new construction is contemplated. The existing kitchen and dining area is adequate for seating the limited number of residents all at one time.

5. The Petitioners are in receipt of a copy of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988, Chapter 21 and are planning to comply with the provisions of Chapter 21 insofar as such provisions may apply to the existing facility.

I trust this information is satisfactory and I am grateful for your cooperation.

Very truly yours,

John G. Noppinger
John G. Noppinger

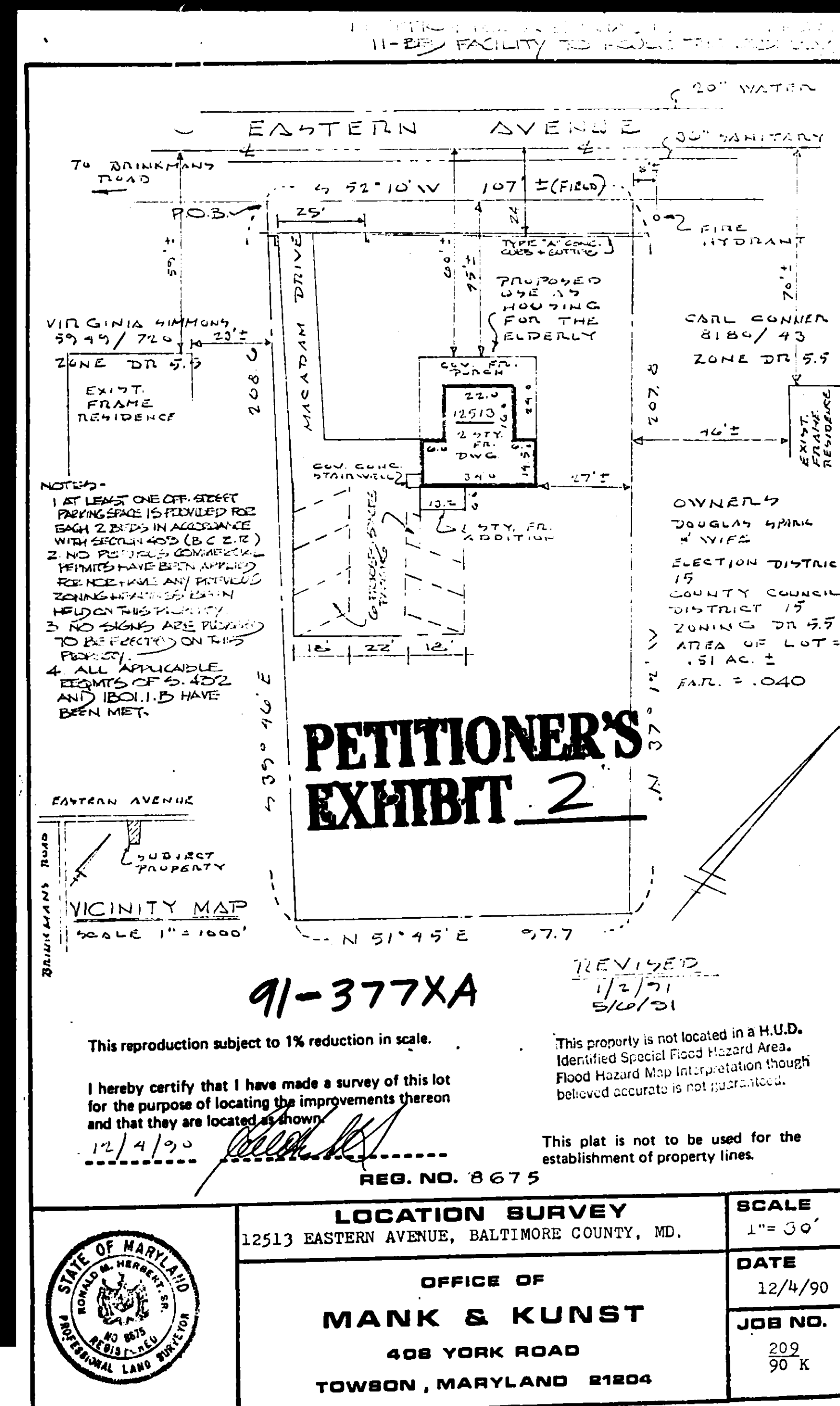
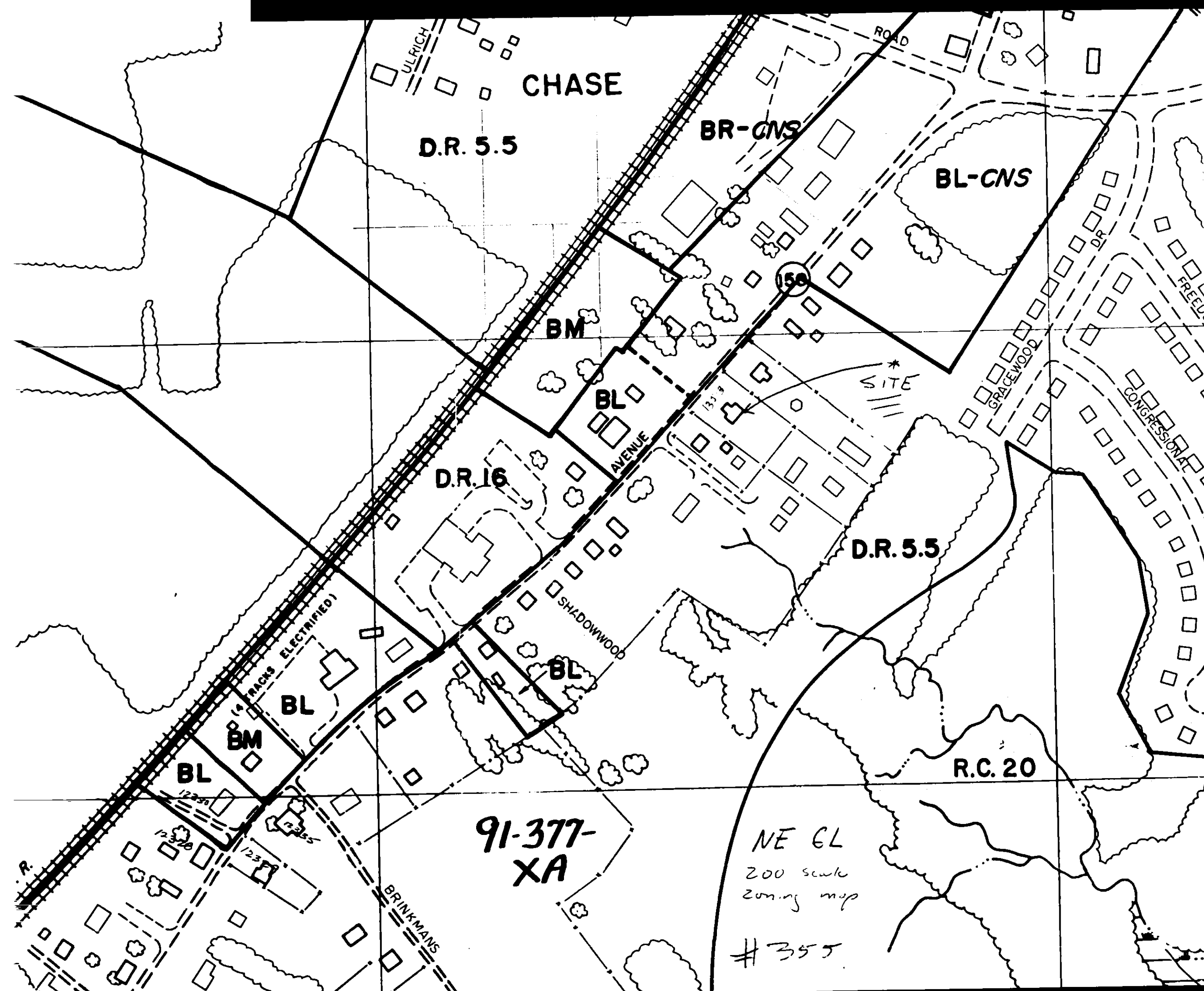
JGN:aea
cc: Mr. and Mrs. Douglas E. Sparks

Department of Health and Mental Hygiene
CODE OF MARYLAND REGULATIONS
10.07.03

Domiciliary Care Homes



4201 Patterson Avenue
Baltimore, Maryland 21215



**PROTESTANT'S
EXHIBIT 4**

12513 Garden Ave 91-377X RECEIVED
JAN 24 1991

BALTIMORE COUNTY, MARYLAND
a body corporate and politic
Plaintiff

V

DOUGLAS EUGENE SPARKS
KIMBERLY M. SPARKS
t/a Golden Years Boarding Home
7127 Chesapeake Road
Baltimore, Maryland 21220
Defendants

* IN THE
* CIRCUIT COURT FOR
* BALTIMORE COUNTY
* CIVIL DIVISION
* Case No.: 91-377X
* Docket: 71
* Folio: 255

CONSENT ORDER

The Plaintiff, having petitioned this Court to enjoin the Defendants from operating unlicensed and unregistered domiciliary care facilities in Baltimore County, this matter was heard on December 13, 1990, at which time counsel for both parties appeared. For the reasons set forth in the Petition, and upon consent of the parties as memorialized in the attached Agreement which is incorporated by reference into and made part of this Consent Order, this Court finds cause to believe that a situation exists which presents immediate, substantial and irreparable harm to the residents housed at the Defendants' three (3) locations named below.

IT IS THEREFORE this 18th day of January, 1991, by the Circuit Court for Baltimore County, Maryland,

1. ORDERED that a permanent Injunction be and is hereby issued against the Defendants, Douglas Eugene Sparks and Kimberly M. Sparks, t/a Golden Years Boarding Home, restraining and enjoining them, and/or anyone acting for them or on their

**PROTESTANT'S
EXHIBIT 2**

behalf, from continuing to operate unlicensed and unregistered domiciliary care facilities at 7327 Chesapeake Road, 7411 Chesapeake Road and 12513 Eastern Avenue, Baltimore County; and it is further

2. ORDERED that the Defendants, Douglas Eugene Sparks and Kimberly M. Sparks, t/a Golden Years Boarding Home, shall immediately remove from 7327 and 7412 Chesapeake Road and 12513 Eastern Avenue in Baltimore County, Maryland, all unrelated individuals in excess of four residing at said premises;

3. ORDERED that the Defendants apply with the Department of Health and Mental Hygiene, Office of Licensing and Certification Program for a registration permit for the three facilities;

4. ORDERED that the Defendants, Douglas Eugene Sparks and Kimberly M. Sparks shall not provide domiciliary care or residence to any unrelated individuals in the excess of four at any location in Baltimore County, Maryland unless and until they have complied with all State and county laws and regulations for licensure;

5. ORDERED that the Defendants shall not impede the ingress or egress of State and County health, fire, zoning and building inspectors to enter upon said three (3) premises for inspection as required under State and County laws and regulations;

6. ORDERED that the Defendants shall pay the sum of \$2,250.00 as a charitable donation to:

**PROTESTANT'S
EXHIBIT 3**

AGREEMENT

This Agreement dated this 22 day of January, 1991, between Baltimore County, Maryland, Plaintiff and the Office of Licensing and Certification Program of the Department of Health and Mental Hygiene (DHMH) and Douglas Eugene Sparks and Kimberly M. Sparks t/a Golden Years Boarding Home, Defendants, recites as follows:

1. The Defendants agree that they were operating three unlicensed domiciliary care facilities at 7327 Chesapeake Road, 7412 Chesapeake Road and 12513 Eastern Avenue, all in Baltimore County, Maryland.

2. Effective December 13, 1990 the Defendants agree to reduce their resident census in each of the above named premises to no more than four residents.

3. Effective December 13, 1990 the Defendants agree to cease all misleading advertising (e.g. shall not advertise or represent themselves as being a licensed facility).

4. The Defendants agree to register each of the three foregoing premises as a domiciliary care facility.

5. The Defendants agree to make a charitable contribution to be paid within thirty (30) days of the signing of the Consent and Order to:

Nehemiah House
8720 Old Philadelphia Road
Baltimore, Maryland 21237
c/o Baltimore County Department
of Community Development
1 Investment Place, Suite 825
Towson, Maryland 21204
Attention: Lois Kramer
301/887-3460

FROM DHMH-DHG TO L & CERT PROGRAMS

Douglas Eugene Sparks
Douglas Eugene Sparks
Defendant

Kimberly Sparks
Kimberly Sparks
Defendant

John G. Noppinger
John G. Noppinger
Assistant County Attorney
Attorney for Defendants
1423 Fidelity Building
Baltimore, Maryland 21201
Suite 302
301/539-3816

William O. Jensen, Jr.
William O. Jensen, Jr.
Attorney for Plaintiff
400 Washington Avenue
Towson, Maryland 21204
301/887-4453

Lawrence A. Kelso
Lawrence A. Kelso
Assistant Attorney General
Office of Licensing and
Certification Program (DHMH)
300 West Preston Street
Suite 302
301/225-1678

**PROTESTANT'S
EXHIBIT 4**

FROM DHMH-DHG

TO L & CERT PROGRAMS

JAN 29, 1991 12:41 PM

Nehemiah House
8720 Old Philadelphia Road
Baltimore, Maryland 21237
c/o Baltimore County Department
of Community Development
1 Investment Place, Suite 825
Towson, Maryland 21204
Attention: Lois Kramer
301/887-3460

Payment is to be made within thirty (30) days of the signing of this ORDER:

7. ORDERED that the Defendants cease and desist from advertising or representing that they are licensed providers of health care or that the facilities are licensed; and it is further

8. ORDERED that this matter shall be subject to the ongoing jurisdiction of this Court.

William O. Jensen, Jr.
William O. Jensen, Jr.
Assistant County Attorney
Attorney for Plaintiff

John G. Noppinger
John G. Noppinger
Attorney for Defendants

Approved:

P. D. DeWaters, Jr.
JUDGE EDWARD A. DEWATERS, JR.
Circuit Court For Baltimore County

For Court Clerk
Suzanne M. Clark
Court Clerk

**PROTESTANT'S
EXHIBIT 5**